

Part 14

Restoration of Parental Rights Act

78A-6-1401 Title.

This part is known as the "Restoration of Parental Rights Act."

Enacted by Chapter 340, 2013 General Session

78A-6-1402 Definitions.

As used in this part, "former parent" means an individual whose legal parental rights were terminated under this chapter.

Enacted by Chapter 340, 2013 General Session

78A-6-1403 Petition to restore parental rights -- Duties of the division.

- (1) A child, who is 12 years of age or older, or an authorized representative acting on behalf of a child of any age, may file a petition to restore parental rights if:
 - (a) 24 months have passed since the court ordered termination of the parent-child legal relationship; and
 - (b) the child:
 - (i) has not been adopted and is not in an adoptive placement, or is unlikely to be adopted before the child is 18 years of age; or
 - (ii) was previously adopted following a termination of a parent-child legal relationship, but the adoption failed and the child was returned to the custody of the division.
- (2) The petition described in Subsection (1) shall be:
 - (a) filed in the juvenile court that previously terminated the parent-child relationship; and
 - (b) served on the division.
- (3) The division shall notify and inform a child who is 12 years of age or older and who qualifies for restoration of parental rights under Subsection (1) that the child is eligible to petition for restoration under this part.
- (4) Upon the receipt of a petition to restore parental rights, filed by a child or an authorized representative acting on behalf of a child, the division shall:
 - (a) make a diligent effort to locate the former parent whose rights may be restored under this part; and
 - (b) if the former parent is found, as described in Subsection (4)(a), notify the former parent of:
 - (i) the legal effects of restoration; and
 - (ii) the time and date of the hearing on the petition.
- (5) The court shall set a hearing on the petition at least 30 days, but no more than 60 days, after the day on which the petition is filed with the court.
- (6) Before the hearing described in Subsection (5), the division may submit a confidential report to the court that includes the following information:
 - (a) material changes in circumstances since the termination of parental rights;
 - (b) a summary of the reasons why parental rights were terminated;
 - (c) the date on which parental rights were terminated;
 - (d) the willingness of the former parent to resume contact with the child and have parental rights restored;

- (e) the ability of the former parent to be involved in the life of the child and accept physical custody of, and responsibility for, the child; and
 - (f) any other information the division reasonably considers appropriate and determinative.
- (7)
- (a) A former parent who remedies the circumstances that resulted in the termination of the former parent's parental rights and who is capable of exercising proper and effective parental care, shall notify the division that if the circumstances described in Subsection (1) are established, the former parent desires and requests to have the former parent's parental rights restored.
 - (b) The former parent's request to the division shall be fully and fairly considered by the division for appropriate submittal to the court.

Amended by Chapter 272, 2015 General Session

78A-6-1404 Hearing on the petition to restore parental rights.

- (1) The court may restore the parent-child legal relationship if:
- (a) the child meets the requirements of Subsection 78A-6-1403(1);
 - (b) considering the age and maturity of the child, the child consents to the restoration;
 - (c) the former parent consents to the restoration; and
 - (d) the court finds by clear and convincing evidence that restoration is in the best interest of the child.
- (2) In determining whether reunification is appropriate and in the best interest of the child, the court shall consider:
- (a) whether the former parent has been sufficiently rehabilitated from the behavior that resulted in the termination of the parent-child relationship;
 - (b) extended family support for the former parent; and
 - (c) other material changes of circumstances, if any, that may have occurred that warrant the granting of the motion.
- (3) At the hearing on a petition described in Section 78A-6-1403, if the former parent consents and if the court finds by clear and convincing evidence that it is in the best interest of the child, the court may:
- (a) allow contact between the former parent and the child, and describe the conditions under which contact may take place;
 - (b) order that the child be placed with the former parent, in a temporary custody and guardianship relationship, to be reevaluated after the child has been placed with the former parent for six months; or
 - (c) restore the parental rights of the parent.
- (4) If the court orders the child to be placed in the physical custody of the former parent under Subsection (3), the court shall specify in the order:
- (a) whether that custody is subject to:
 - (i) continued evaluation by the court; or
 - (ii) the supervision of the division; and
 - (b) the terms and conditions of reunification.

Amended by Chapter 272, 2015 General Session